

# SENATE RECORD VOTE ANALYSIS

105th Congress  
2nd Session

Vote No. 296

October 2, 1998, 11:52 a.m.  
Page S-11318 Temp. Record

## INTERNET TAX FREEDOM ACT/Sales Taxes on Interstate Sales

**SUBJECT:** Internet Tax Freedom Act . . . S. 442. McCain motion to table the Bumpers amendment No. 3677.

### ACTION: MOTION TO TABLE AGREED TO, 66-29

**SYNOPSIS:** The Finance Committee substitute to S. 442 (both the Commerce Committee and the Finance Committee reported versions of the bill), will impose a 2-year moratorium beginning July 29, 1998 on certain State and local taxation of online services and electronic commerce (the Commerce Committee substitute would impose a 6-year moratorium), and will establish an advisory commission on electronic commerce to study the issue and make recommendations during that moratorium

**The Bumpers amendment** would give States the power to order out-of-State businesses to collect and remit State and local sales taxes on tangible goods. An exception would be given to businesses that sold less than \$3 million worth of merchandise per year or that sold less than \$100,000 worth of merchandise per year to residents in a State that required such tax collections. A State could require the collection and remittance of the exact amount due for each of its jurisdictions or could impose a fee that would be equal to the State sales tax and the average of the local sales taxes.

Debate was limited by unanimous consent. After debate, Senator McCain moved to table the Bumpers amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

**Those favoring** the motion to table contended:

The Bumpers amendment would have us give States carte blanche authority to impose huge new taxes on interstate sales after only a couple of hours of debate. This reckless rush to tax would leave numerous unanswered questions. Is the proposed exemption for small businesses set at an appropriate level? Will mail-order items experience substantial delivery delays when the wrong tax is computed by a purchaser, making it necessary to send more money before the item will be sent? Will this new tax prove harmful to elderly Americans, rural Americans, and others who disproportionately rely on mail-order items? Will State or local governments

(See other side)

YEAS (66)			NAYS (29)		NOT VOTING (5)	
Republicans (48 or 89%)	Democrats (18 or 44%)		Republicans (6 or 11%)	Democrats (23 or 56%)	Republicans (1)	Democrats (4)
Abraham	Hutchison	Baucus	Bennett	Akaka	Bond <sup>-2</sup>	Glenn <sup>-2</sup>
Allard	Inhofe	Biden	Cochran	Bingaman		Hollings <sup>-2</sup>
Ashcroft	Jeffords	Boxer	Enzi	Breaux		Kerrey <sup>-2</sup>
Brownback	Kempthorne	Daschle	Gorton	Bryan		Moseley-Braun <sup>-2</sup>
Burns	Kyl	Dodd	Roberts	Bumpers		
Campbell	Lott	Durbin	Specter	Byrd		
Chafee	Lugar	Feingold		Cleland		
Coats	Mack	Feinstein		Conrad		
Collins	McCain	Kerry		Dorgan		
Coverdell	McConnell	Kohl		Ford		
Craig	Murkowski	Lautenberg		Graham		
D'Amato	Nickles	Leahy		Harkin		
DeWine	Roth	Lieberman		Inouye		
Domenici	Santorum	Murray		Johnson		
Faircloth	Sessions	Reid		Kennedy		
Frist	Shelby	Robb		Landrieu		
Gramm	Smith, Bob	Torricelli		Levin		
Grams	Smith, Gordon	Wyden		Mikulski		
Grassley	Snowe			Moynihan		
Gregg	Stevens			Reed		
Hagel	Thomas			Rockefeller		
Hatch	Thompson			Sarbanes		
Helms	Thurmond			Wellstone		
Hutchinson	Warner					

#### EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

#### SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

attempt to monitor, regulate, or police Internet sales in order to collect sales taxes? Will the growth in Internet commerce be strangled when each little company will become responsible for knowing and enforcing every single one of the thousands of local sales taxes? Our colleague from Arkansas likes to decry how terrible it is that little mom-and-pop stores have to compete with big, out-of-State mail-order companies that have a competitive advantage because they do not charge sales taxes. The reality, though, is that people are far more likely to drive an extra block or two to a Wal-Mart, a Target, or a K-Mart to save a few dollars on an item than they are to order it through the mail. We simply do not believe that our colleagues have made the case that tax avoidance is driving the popularity of mail-order sales, nor have they made the case that the "benefit" of letting States impose new taxes will not result in huge burdens that will cripple the mail-order industry. The catalog industry alone has \$40 billion in annual sales and employs more than 250,000 people. With all due respect, we are not going to risk wiping that out simply because the Senator from Arkansas believes that it will be an easy matter for mail-order businesses to collect sales taxes for thousands of different governments. We will support further study of this issue but we will not vote for these new State taxes now. Therefore, we strongly favor the motion to table the Bumpers amendment.

**Those opposing** the motion to table contended:

States should have the right to tax all of the goods that are sold within their borders. They need revenue in order to pay for public goods like schools, law enforcement, and roads. The Supreme Court has ruled that States do not have authority under the Commerce Clause of the Constitution to make out-of-State companies that sell products and ship them to their residents pay sales taxes. In an effort to get around that law, 45 States have enacted taxes ("use" taxes) that order their residents to remit the amounts that would be due if they could make out-of-State businesses collect sales taxes. Those taxes, though, are difficult to enforce. Few people know that they exist, and few people have the forms, or the inclination, to send in the amounts due. In a large percentage of the cases, it would cost more to fill out the form and put on the stamp than would be mailed to the State in use taxes. Therefore, the situation as it now exists is that in-State firms are at a competitive disadvantage with out-of-State businesses, and States are losing tax revenue on sales. Congress can fix this problem simply by allowing States to require out-of-State companies to collect all of the sales taxes due for goods sold in-State. Our colleagues tell us that this requirement will prove to be a nightmare for businesses because there are so many taxing jurisdictions in the United States. However, Senator Bennett reports that when he was in private business his large computer company voluntarily collected and paid all of the sales taxes due, and that it was simple to compute the amounts due with modern computer technology. Over \$100 billion worth of goods are sold by catalog mail-order each year, and States are losing \$4 billion in taxes on those goods. Internet sales are only \$8 billion per year now, but by the year 2002 it is estimated that they will exceed \$300 billion. We need to give States the right to tax these sales. We urge our colleagues to support the Bumpers amendment.